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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

WILLIAM STEWART,

Case No. _____

Plaintiff,

v.

**PARKING ENFORCEMENT SERVICES,
LLC, dba RETRIEVER TOWING; and
SCOTT WALBRUN,**

Defendants.

DEFENDANTS' NOTICE OF REMOVAL

[Removal from Circuit Court of the State of
Oregon, Multnomah County No. 19cv42304]

JURY TRIAL REQUESTED

**TO THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON,
PORTLAND DIVISION:**

PLEASE TAKE NOTICE THAT, pursuant to 28 USC § 1332, 28 USC § 1441(a) and (b), and 28 USC § 1446, Defendants Parking Enforcement Services, LLC dba Retriever Towing and Scott Walbrun ("Defendants") hereby remove the above-captioned lawsuit from the Circuit Court of Multnomah County, where it is currently pending, to the United States District Court for the District of Oregon, Portland Division.

As grounds for removal, Defendants state as follows:

I. NOTICE OF REMOVAL IS TIMELY AND PROCEDURALLY PROPER

1. On September 26, 2019, plaintiff William Stewart filed a complaint for negligence in Multnomah County Circuit Court, styled *William Stewart v. Parking Enforcement Services, LLC dba Retriever Towing and Scott Walbrun*, Case No. 19CV42304.

2. Plaintiff's complaint was served on defendant Retriever Towing's registered agent on October 3, 2019.

3. Defendant Scott Walbrun did not receive a copy of the complaint, by service or otherwise, until October 24, 2019, at the earliest. Defendant Walbrun was not served under the Oregon Rules of Civil Procedure before that date.

4. At all times when Plaintiff mailed the summons and complaint to Defendant Scott Walbrun, he knew that Defendant Walbrun had moved out of state and no longer resided in Oregon.

5. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders received by defendants accompany this Notice of Removal as separate attachments. *See Exhibit 1.* No other pleadings or orders have been received by or served by defendants in the underlying case.

6. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because it is filed within 30 days of defendant Scott Walbrun's receipt of a copy of the initial pleading setting forth plaintiff's claims for relief. This Notice of Removal is also filed within 30 days of Defendant Walbrun's being served under the Oregon Rules of Civil Procedure.

7. This Notice of Removal is filed within one year of the commencement of the action.

8. No further proceedings have been had in the Circuit Court of Multnomah County, Oregon, as of the date of this removal.

9. No previous application has been made for the relief requested herein.

10. Defendant Retriever Towing joins in and consents to the removal of this action.

11. Defendant Scott Walbrun joins in and consents to the removal of this action.

II. VENUE IS PROPER IN THE DISTRICT OF OREGON, PORTLAND DIVISION

12. Pursuant to 28 U.S.C. § 1441(a), removal is made to this Court as the District and Division embracing the place where the State action is pending. The Circuit Court of Multnomah County, Oregon, is located within the Portland Division, pursuant to 28 USC § 117.

III. REMOVAL IS PROPER BECAUSE THIS DISTRICT HAS SUBJECT MATTER JURISDICTION

13. There is complete diversity of citizenship between the Plaintiff and Defendants in this action because when the Complaint was filed and ever since:

- a. Plaintiff William Stewart is and has been a citizen of the State of Colorado;
- b. Defendant Parking Enforcement Services, LLC is an Oregon limited liability company with Michael Coe as its only member. Michael Coe is and has been a citizen of the State of Washington. Thus, Defendant Parking Enforcement Services, LLC is and has been a citizen of the State of Washington.
- c. Defendant Scott Walbrun is and has been a citizen of the State of Washington.

14. More than \$75,000, exclusive of interest and costs, is in controversy in this action.

15. This Court would have had original subject matter jurisdiction of this action under the provisions of 28 U.S.C. § 1332 if the action had been originally been brought in federal court. Removal is, therefore, proper under 28 U.S.C. § 1441(a).

16. Removal of this case on the basis of diversity of citizenship is not precluded by the provisions of 28 U.S.C. § 1441(b) because none of the parties in interest is a citizen of the State of Oregon, the State in which this action was brought.

IV. FILING OF REMOVAL PAPERS

17. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal of Civil Action is being served upon counsel for plaintiff, and a copy will be filed with the clerk of the Circuit Court of the State of Oregon for the County of Multnomah. See Exhibit 1.

V. RESERVATION OF RIGHTS

18. By filing this Notice of Removal, defendants do not waive any jurisdictional or other defenses that might be available to them. In addition, defendants expressly reserve the right to move for dismissal of some or all of plaintiff's claims pursuant to Rule 12 of the Federal Rules of Civil Procedure and does not waive said defenses with the filing of this Notice. Defendants reserves the right to amend or supplement this Notice of Removal.

WHEREFORE, Defendants hereby remove this civil action from the Circuit Court of the State of Oregon for the County of Multnomah, Oregon, to the United States District Court for the District of Oregon, Portland Division, and requests that this Court retain jurisdiction for all further proceedings in this matter; that this Court accept jurisdiction thereof; that said action be placed henceforth on the docket of this Court for further proceedings, the same as though originally instituted in this Court; and for such other relief as may be just and proper. Should any question arise as to the removal of this matter, Defendants respectfully request an opportunity to conduct appropriate discovery and/or to provide briefing and oral argument as to why removal is proper.

Dated this 21st day of November, 2019.

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By: /s/ Matthew N. Miller

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